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To whom it may concern

Management of asbestos in recovered fines and recovered materials for beneficial reuse in NSW

On behalf of the Australian Council of Recycling (ACOR), we welcome the Office of the Chief Scientist's review of the management of asbestos.

ACOR is the peak industry body for the resource recovery, recycling, and remanufacturing sector in Australia. Our membership is represented across the recycling value chain, and includes leading organisations in advanced chemical recycling processes, CDS operations, kerbside recycling, recovered metal, glass, plastic, paper, organic, tyre, textile, oil and e-product reprocessing and remanufacturing, and construction and demolition recovery.

Our mission is to lead the transition to a circular economy through the recycling supply chain. To meet this priority, we must ensure that there is a strong balance struck between risk and reward in the management of all waste materials.

Construction and demolition forms Australia's largest waste stream and it is vital that resource recovery from this sector is maximised. Measures that affect the technical feasibility or economic viability of resource recovery and recycling will lead to recyclable materials being diverted to landfill, hindering progress toward the resource recovery targets agreed upon by all Australian governments. Decisions about contamination thresholds must be transparent, evidence-based and nationally harmonised, to support industry certainty and investment in resource recovery.

1. Alignment with principles presented by WCRA and WMRR

ACOR supports the principles addressed in the joint submission by the Waste Contractors and Recyclers Association of NSW (WCRA) and Waste Management and Resource Recovery Association of Australia (WMRR).

Specifically, thresholds set for asbestos contamination must be able to be delivered in a way that is both technically feasible and economically viable. The recently released Australian Standard AS5370 has determined that it is not feasible to test to the sensitivities set in the National Environment Management Plan.

Furthermore, NSW's environmental regulators place stringent controls on the storage of recovered materials, despite the fact that the recycling sector often has little to no control over the volume or timing of this feedstock. This limits the ability of recyclers to store recovered materials while awaiting testing results.

In 2021–2022, NSW recycled 9,258,000 million tonnes of construction and demolition waste, a volume that must keep moving—delays and bottlenecks due to testing can lead to recoverable materials being diverted to landfill.

2. Preventing asbestos contamination throughout the supply chain

Construction and demolition recycling yields a high rate of resource recovery, with a national average of around 80 per cent. While there is strong potential for even higher recycling rates, a risk to the sector is the presence of contaminants such as asbestos. The presence of such contaminants necessitates the diversion of recyclable material to landfill—ultimately a waste of resources.

The objectives of resource recovery and a circular economy are also undermined by environmental regulations, which, for example, set unfeasibly low tolerances for contamination in waste categorisations, preventing recovery while doing nothing to prevent the accumulation of contamination through the supply chain. Regulating contaminants at 'end-of-pipe' assigns such burdens to the resource recovery sector rather than responsible parties who produced the contamination in the first instance.

In the construction and demolition recycling supply chain, for instance, there are clear opportunities to reduce asbestos contamination through closing regulatory gaps. Some such approaches are as follows:

- Harmonisation: consistent risk-based thresholds for asbestos contamination between regulatory authorities and across jurisdictions for both soil and construction & demolition streams.
- Improved tracking: a system to track demolition projects, waste movement, and rejected loads, and establishment of a register of rejected suppliers.
- Strengthened enforcement: collaboration between environmental, workplace safety and building regulators to improve compliance checks and deter illegal practices.
- Standardisation: clear, consistent and feasible standards for asbestos identification, sampling methodologies and soil assessments.
- Industry education: training for demolition contractors on proper asbestos management practices.

3. Waste levy policy

Special attention must be paid to the application of the NSW waste levy on hazardous and non-recyclable materials such as asbestos, which contaminates recycling streams. Costly disposal of asbestos can incentivise illegal dumping into the environment, or illegitimate disposal into waste and recycling streams, however, levy exemptions or concessions alone could lead to perverse outcomes. It is a priority to address a supply-chain wide approach to the appropriate management of asbestos.

A differentiated levy exemption for legitimate recycling residuals in this part of the sector is an essential consideration. Higher levy discounts on residuals should be applied for higher resource efficiency, to reward best practice and innovation. An efficient way to assess a recycler's suitability for levy exemptions would be a recycling-specific accreditation scheme. For further discussion of recycler accreditation, see section 5 below.

At the same time, care must also be taken to ensure that such an approach does not incentivise leakage of recyclable material in construction and demolition recycling, or commercial and industrial recycling.

4. Reducing opportunities for illegal activity

A critical focus for compliance and enforcement must be rogue unlicensed operators. Illegal and unethical waste management practices undermine investment in resource recovery and recycling. Strong enforcement is required to ensure that all operators play by the same rules.

The impression from recyclers is that regulators focus on minor or point-in-time infractions from businesses striving for compliance, while non-compliant rogue traders operate with impunity. There must be much stronger enforcement to address unlicensed operators, as well as better transparency about actions undertaken by Government in relation to rogue and illegal activities, to build confidence among legitimate operators.

5. Recycler accreditation

As recyclers evolve and transition to a more circular economy, there is a need to support better practice across industry and improve confidence in recycling outcomes. Recyclers have a very broad range of capabilities and practices across the sector, and those engaged in poor practices can affect the reputation

of the entire industry. Legitimate recyclers striving for full compliance operate at a competitive disadvantage to unlicensed, noncompliant operators, creating an uneven playing field.

Stakeholders can struggle to distinguish waste operations from recycling activities, or good from poor practices, leading to increasing demand for generic third-party performance and outcome verification.

An accreditation program for recyclers will deliver value to industry, government, and the community by providing confidence to stakeholders that accredited recyclers are operating legitimately; are at, or moving towards, best practice; and are proactively meeting appropriate quality outcomes suitable for the recycling sector.

Therefore, a key priority for the recycling sector is the delivery of an Australian Recyclers Accreditation Program (ARAP), a national accreditation program available to all recyclers. The ARAP will establish an objective, consistent and efficient process for assessing a recycling operator's performance, providing assurance around the legitimacy of recycling operations.

The ARAP would be an independently governed program, ensuring transparency and accountability. As a site-based accreditation program, it will offer confidence and reassurance to the community.

In 2021, the Australian Government supported a feasibility study into the establishment of the ARAP, which identified that the implementation phase should be federally funded, after which it would be self-sustained through a user-pays approach. This development to date means the ARAP could be implemented within a short timeframe of 6–12 months.

Governments could create incentives—such as differentiated regulatory fees, tax incentives or priority access to markets—for recycling facilities that consistently demonstrate high levels of compliance, as identified through the ARAP.

6. Conclusion

The transition to a circular economy can be supported through effective asbestos controls that maximise resource recovery while protecting human health and the environment.

Our members bring considerable real-world resource recovery and recycling expertise based on their operating in every jurisdiction in Australia and internationally, and we would be very pleased to facilitate further dialogue and consultation on the above matters.

Yours sincerely

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